

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Ruben Plaza-Uzeta,

Petitioner,

v.

United States of America,

Respondent.

No. CV-22-00789-PHX-GMS (ASB)

(No. CR-05-00225-2-GMS)

**ORDER**

Before the Court are Petitioner's Second Amended Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by Person in Federal Custody (Doc. 25), United States Magistrate Judge Bachus's Report and Recommendation (Doc. 34), Petitioner's Objections to the Report and Recommendation (Doc. 35), and the United States' Response to Movant's Objection to the Report and Recommendation (Doc.36).

The Court has considered Petitioner's objections, the United States' Response to Petitioner's Objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the Court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court accepts the magistrate judge's recommended disposition within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner's objections. *See* 28 U.S.C. § 636(b)(1) (stating that the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate"). As the R&R

1 notes a “federal sentence cannot begin before the defendant has been sentenced in federal  
2 court.” *Schleining v. Thomas*, 642 F.3d 1242, 1244 (9th Cir. 2011).

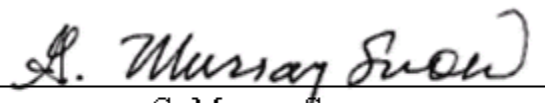
3 **IT IS ORDERED** that the Report and Recommendation of Magistrate Judge  
4 Bachus (Doc. 34) to deny and dismiss Petitioner’s Second Amended Motion under 28  
5 U.S.C. § 2255 is accepted.

6 **IT IS FURTHER ORDERED** that Petitioner’s Second Amended Motion Under  
7 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by Person in Federal Custody  
8 (Doc. 25) is denied and dismissed.

9 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment  
10 accordingly and terminate this action.

11 Having considered the issuance of a Certificate of Appealability from the order  
12 denying Petitioner’s Second Amended Motion Under 28 U.S.C. § 2255 to Vacate, Set  
13 Aside or Correct Sentence by Person in Federal Custody, the Certificate of Appealability  
14 **is DENIED**. Petitioner has not made a substantial showing of the denial of a constitutional  
15 right. *See* Rule 11(a), Rules Governing Section 2255 Cases in the United States District  
16 Courts; 28 U.S.C. § 2253(c)(3).

17 Dated this 24th day of January, 2024.

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20 G. Murray Snow  
21 Chief United States District Judge  
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